

CASE NO. 15-_____

**UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT**

DEBRA SLAYTON,

Plaintiff-Appellant,

vs.

Case No.: 14-cv-117-bbc

**CAROLYN COLVIN,
Acting Commissioner of Social Security,**

**Hon. Barbara B. Crabb
United States District Judge**

Defendant-Appellee

**Appeal from a Judgment from
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN**

DOCKETING STATEMENT

Dana W. Duncan
Attorney for the Plaintiff-Appellant
Duncan Disability Law, S.C.
State Bar I.D. No. 01008917
3930 8th Street South, Suite 201
Wisconsin Rapids, WI 54494
(715) 423-4000

Plaintiff-Appellant, Deborah Slayton, by her attorney, Dana W. Duncan, **Duncan Disability Law, S.C.**, submits this docketing statement alleging the following:

1. The District Court's jurisdiction is contained in an appeal of an adverse decision of the Commissioner of Social Security under §216(i) and 223 of the Social Security Act, 42 U.S.C. §416(i) and 423(d).
2. To be reviewed is an order and judgment by the Honorable, Barbara B. Crabb, District Judge, dated January 9, 2015 and judgment entered on the same date, affirming the decision of the Defendant-Appellant, Carolyn W. Colvin, Acting Commissioner of Social Security, denying the plaintiff-appellant's application for a period of disability and disability insurance benefits under 42 U.S.C. §§216(i) and 223.
3. This docketing statement is submitted pursuant to Circuit Rule 3(c) and Circuit Rule 28(a).
4. A Notice of Appeal was filed on or about the 9th day of February, 2015.
5. The Notice of Appeal from the order of the Honorable Barbara B. Crabb is an appeal from a final judgment adjudicating all of the claims with respect to all parties.
6. As procedural history:
 - A. Pursuant to 42 U.S.C. §405(g), Plaintiff, Michael J. Schaeffer, sought judicial review of the final administrative decision of the Commissioner of Social Security (SSA or Commissioner). The matter was filed and submitted briefs in July, October and November of 2014.
 - B. On September 17, 2013, ALJ Richard Thrasher issued a sixteen-page decision, finding that Slayton met the insured status requirements of the Social Security Act through September 30, 2009, had not engaged in substantial gainful activity since May 1, 2009, the alleged onset date and did not have a severe

impairment for Title II benefits from the alleged onset date of May 1, 2009, through her date last insured of September 30, 2009.

- C. The ALJ found that Slayton did not have an impairment or combination of impairments that met or medically equaled the severity of one of the listed impairments in 20 CFR Part 404, Subpart P, Appendix 1.
- D. In establishing the residual functional capacity, the ALJ found that Slayton had the ability “to perform light work, with occasional climbing of ramps and stairs; no climbing of ladders, ropes or scaffolds; occasional stooping, kneeling and crouching; occasional reaching overhead bilaterally; frequent exposure to fumes, odors, dusts, gases, and poor ventilation; and no exposure to moving machine parts or unprotected heights.”
- E. The ALJ found that Slayton was capable of performing past relevant work as a laundry worker (DOT No. 361.687-030, light / unskilled work). This work does not require the performance of work-related activities precluded by the claimant's residual functional capacity.
- F. The ALJ found that “Although the claimant is capable of performing past relevant work, there also are other jobs existing in the national economy that she is able to perform.”
- G. The ALJ that Slayton was born on July 11, 1956, was 52 years old, which was defined as an individual closely approaching advanced age, on the alleged disability onset date, had a limited education and was able to communicate in English.
- H. He also found that “Prior to her 55th birthday of July 10, 2011, under the regulations, in the alternative, considering the claimant's age, education, work experience, and residual functional capacity, there were other jobs that exist in significant numbers in the

national economy that the claimant also could have performed.”

- I. The vocational expert testified that given all of these factors the individual would be able to perform the requirements of representative occupations such as packager (DOT No. 920.687034, light / unskilled work, of which there are 40,000 jobs in the national economy), folding machine operator (DOT No. 794.687-034, light / unskilled work, of which there are 30,000 jobs in the national economy) and assembly (DOT No. 920.687-026, light / unskilled work, of which there are 25,000 jobs in the national economy) (See Hearing Record).
- J. A finding of “not disabled” was therefore appropriate under the framework of the above-cited rule, through July 11, 2011. Thereafter, the records show the claimant could perform her past relevant work as a laundry worker, as discussed in detail above.
- K. The ALJ also found that, while a grant would be alternatively warranted under Medical-Vocational Rule 202.01 at age 55, such was not appropriate because the laundry worker position can be done as normally performed under the DOT and, hence, a denial is warranted at Step 4 of the sequential evaluation process.
- L. Following the submission of briefs, the Honorable Barbara B. Crabb, United States District Judge, issued an Opinion and Order dated January 9, 2015, and the judgment entered the same date, upholding the decision the Commissioner’s final decision.

Dated this 9th day of February, 2015.

Respectfully submitted,

Duncan Disability Law, S.C.
Attorneys for the Plaintiff-Appellant

/s/ Dana W. Duncan

Dana W. Duncan
State Bar I.D. No. 01008917
3930 8th Street South, Suite 201
Wisconsin Rapids, WI 54494
(715) 423-4000